

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
Deputy Attorney General
4 State Bar No. 149294
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2107
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. **2010-525**

14 **ALEXANDER JAMES BENTLEY**
15 **1801 Diamond Street, #323**
16 **San Diego, CA 92109**

ACCUSATION

17 **Registered Nurse License No. 577101**

18 Respondent.
19

20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
24 of Consumer Affairs.

25 2. On or about February 8, 2001, the Board of Registered Nursing issued Registered
26 Nurse License Number 577101 to Alexander James Bentley (Respondent). The Registered Nurse
27 License was in full force and effect at all times relevant to the charges brought herein and will
28 expire on December 31, 2010, unless renewed.

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1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
4 record pertaining to, the substances described in subdivision (a) of this section,
5 in which event the record of the conviction is conclusive evidence thereof.

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8 8. Section 482 of the Code states:

9 Each board under the provisions of this code shall develop criteria to
10 evaluate the rehabilitation of a person when:

11 (a) Considering the denial of a license by the board under Section 480; or

12 (b) Considering suspension or revocation of a license under Section 490.

13 Each board shall take into account all competent evidence of
14 rehabilitation furnished by the applicant or licensee.

15 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 10. Section 493 of the Code states:

20 Notwithstanding any other provision of law, in a proceeding conducted
21 by a board within the department pursuant to law to deny an application for a
22 license or to suspend or revoke a license or otherwise take disciplinary action
23 against a person who holds a license, upon the ground that the applicant or the
24 licensee has been convicted of a crime substantially related to the qualifications,
25 functions, and duties of the licensee in question, the record of conviction of the
26 crime shall be conclusive evidence of the fact that the conviction occurred, but
27 only of that fact, and the board may inquire into the circumstances surrounding
28 the commission of the crime in order to fix the degree of discipline or to
determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
and 'registration.'

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the
qualifications, functions or duties of a registered nurse if to a substantial degree it

1 evidences the present or potential unfitness of a registered nurse to practice in a
2 manner consistent with the public health, safety, or welfare. Such convictions or
3 acts shall include but not be limited to the following:

4 (a) Assaultive or abusive conduct including, but not limited to, those violations
5 listed in subdivision (d) of Penal Code Section 11160.

6 (b) Failure to comply with any mandatory reporting requirements.

7 (c) Theft, dishonesty, fraud, or deceit.

8 (d) Any conviction or act subject to an order of registration pursuant to Section 290
9 of the Penal Code.

10 12. California Code of Regulations, title 16, section 1445 states:

11 (b) When considering the suspension or revocation of a license on the grounds
12 that a registered nurse has been convicted of a crime, the board, in evaluating
13 the rehabilitation of such person and his/her eligibility for a license will
14 consider the following criteria:

15 (1) Nature and severity of the act(s) or offense(s).

16 (2) Total criminal record.

17 (3) The time that has elapsed since commission of the act(s) or offense(s).

18 (4) Whether the licensee has complied with any terms of parole, probation,
19 restitution or any other sanctions lawfully imposed against the licensee.

20 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4
21 of the Penal Code.

22 (6) Evidence, if any, of rehabilitation submitted by the licensee.

23 COST RECOVERY

24 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dangerous Use of Alcohol DUI on February 18, 2005)

14. Respondent is subject to disciplinary action under Code section 2761(a), on the
grounds of unprofessional conduct, as defined in Code section 2762 (b), in that Respondent

1 consumed alcohol in a manner injurious to himself or others and drove his car while under the
2 influence of alcohol on February 18, 2005. The circumstances are as follows:

3 a. On February 18, 2005, a Redondo Police Department officer observed Respondent
4 drive in an unsafe manner, weaving in and out of the No. 1 and No. 2 lanes, and speeding on
5 Pacific Coast Highway. The officer initiated a traffic stop on the suspicion that Respondent was
6 driving under the influence of alcohol. The deputy observed Respondent's strong odor of alcohol
7 on his breath and body, slurred speech, and blood-shot watery eyes. Respondent failed to
8 properly perform any and all of the Field Sobriety tests conducted by the officer. Respondent
9 refused a PAS test. Respondent was arrested for driving under the influence of alcohol.

10 b. Respondent requested a blood test instead of a breathalyzer test of his blood
11 alcohol content. The officer transported Respondent to the hospital to have his blood drawn.
12 Prior to his arrest, Respondent told the officer that he does not take any medications. At the
13 hospital, Respondent told the nurse that he takes a medication called Coumidan, daily, and was
14 therefore not able to have his blood drawn. The officer transported Respondent to the police
15 station for a breathalyzer test. Respondent refused to cooperate or properly perform a
16 breathalyzer test in that Respondent refused to blow a sufficient amount of air into the
17 breathalyzer such that a reading could not be obtained.

18 SECOND CAUSE FOR DISCIPLINE

19 (April 29, 2005, Criminal Conviction for DUI on February 9, 2005)

20 15. Respondent is subject to disciplinary action under section 2761(f) and 490 for his
21 criminal conviction for reckless driving in violation of Vehicle Code section 23103 (b), which is
22 substantially related to his qualifications, functions and duties as a registered nurse. The
23 circumstances are as follows:

24 a. On April 29, 2005, in the Superior Court of California, County of Los Angeles,
25 Redondo Beach, in the case entitled, *People of the State of California v. Alexander James*
26 *Bentley*, Case No. 501370, Respondent pled guilty to violating Vehicle Code section 23103 (a)
27 (reckless driving).

b. On April 29, 2005, Respondent was sentenced but, the specific sentence terms are unknown at this time.

c. The circumstances that led to the conviction are that on or about February 18, 2005, Respondent drove on a highway in a willful or wanton disregard for the safety of persons or property, as described in paragraph 14 above, which is incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(February 9, 2010, Criminal Conviction for DUI on November 18, 2009)

16. Respondent is subject to disciplinary action under section 2761(f) and 490 for his criminal conviction for driving under the influence of alcohol in violation of Vehicle Code section 23152 (b), which is substantially related to his qualifications, functions and duties as a registered nurse. The circumstances are as follows:

a. On or about February 9, 2010, in the Superior Court of California, County of San Diego, North County Division, in the case entitled, *People of the State of California v. Alexander James Bentley*, Case No. CN271105, Respondent pled guilty to violating Vehicle Code section 23152(b) (driving under the influence of alcohol), a misdemeanor.

b. On or about February 9, 2010, Respondent was sentenced to five years summary probation, 10 days community service, complete First Offenders' Alcohol Program, complete a Mothers Against Drunk Driving Impact Panel, and fines.

c. The circumstances that led to the conviction are that on November 18, 2009, a San Diego sheriff deputy observed Respondent drive at an unsafe speed into a left turn, and complete the turn by driving into oncoming traffic lanes. The sheriff deputy initiated a traffic stop on the suspicion that Respondent was driving under the influence of alcohol. The deputy observed Respondent's odor of alcohol on his breath and body, blood-shot watery eyes, inability to focus, and inability to walk without stumbling. An analysis of Respondent's blood confirmed that he was driving with a blood alcohol content of 0.22 percent, more than double the legal limit permitted to safely drive a car.

d. Respondent was uncooperative with the sheriff deputy throughout his arrest in that Respondent refused to follow instructions during the field sobriety tests, refused to exit the

1 sheriff's patrol car when instructed upon arrival at the sheriff station and became combative such
2 that Respondent had to be dragged out of the patrol car by his feet, refused to take a breathalyzer
3 test at the sheriff station, and refused to cooperate during a blood test. Three sheriff deputies
4 ultimately had to physically restrain Respondent face down on the sheriff station floor while his
5 blood was drawn by a nurse.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct: February 9, 2010, Criminal Conviction for DUI)**

8 17. Respondent is subject to disciplinary action for unprofessional conduct under section
9 2761(a), as defined by section 2762 (c), for his criminal conviction for driving under the influence
10 of alcohol, which is described above in paragraph 16 and incorporated herein by reference.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct: Dangerous Use of Alcohol)**

13 18. Respondent is subject to disciplinary action under Code section 2761(a), on the
14 grounds of unprofessional conduct, as defined in Code section 2762 (b), in that Respondent
15 consumed alcohol in a manner injurious to himself or others and drove his car with a blood
16 alcohol content of 0.22%. The circumstances are described above in paragraph 16 and
17 incorporated herein by reference.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 577101, issued to
22 Alexander James Bentley.

23 2. Ordering Alexander James Bentley to pay the Board of Registered Nursing the
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/21/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant